

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

T. Kurosawa, et al.

Serial No.: **10/671,519**

Art Unit: **1615**

Filed: **September 29, 2003**

Examiner: **M. Mercier**

For: **External Skin Preparation**

**DECLARATION OF COMMERCIAL SUCCESS PURSUANT
TO MPEP 716.01(a)**

I, Takafumi Kurosawa, hereby depose and say:

1. That I reside at 1-27-7, Nakamachidai, Tsuzuki-ku, Yokohama, Japan;
2. That I received a masters degree from the University of Tsukuba;
3. That I have been employed by Shiseido Co., Ltd. since 1991, where I hold a position as researcher, with responsibility for developing new technology for cosmetic formulations;
4. That I am familiar with the above-identified U. S. patent application, and the claims therein as now set forth in an Amendment filed herein on September 10, 2008;
5. That I am familiar with Shiseido Co., Ltd. external skin preparations (and in particular sunscreen cosmetics), having compositions according to the composition claims now called for in the above-identified application;
6. That Shiseido Co., Ltd. manufactures a product identified as "Anessa", illustrated in Attachment A attached hereto, which was and is being sold in various countries including Japan, Japan, China, Taiwan, Korea, Hong Kong, Singapore, and Thailand;

7. That the Shiseido Co., Ltd. product identified as “Anessa” comprises the external skin preparation as now called for in claims 1-3 and 5-12 of the above-identified application, the composition of same detailed in Attachment B attached hereto;

8. That “Anessa” has received widespread acclaim, and has achieved great commercial success in the form of high sales. In particular, total sales of “Anessa” in Japan in 2003 were approximately 3.4 billion yen, in 2004 were approximately 5.1 billion yen, in 2005 were approximately 5.5 billion yen, and in 2006 were approximately 6.3 billion yen. In total, from 2003-2006, Shiseido, the assignee herein, has sold approximately 20.3 billion yen worth of the “Anessa” product, and as illustrated, the trend is of increasing sales. It is believed that the commercial success of the “Anessa” product is attributable to the low skin irritation provided by the claimed combination of components herein.

9. That the product “Anessa” received no more than the normal advertising and promotion by Shiseido Co., Ltd., and this product was not more heavily advertised than other Shiseido cosmetic products;

10. That the external skin preparation according to the claims in the above-identified application imparts to the product “Anessa” an excellent reduction in skin irritation caused by the presence of the sunscreen agents, and the presence of the claimed glucoside allows the amount of sunscreen agents to be maintained without a concurrent skin irritation effect;

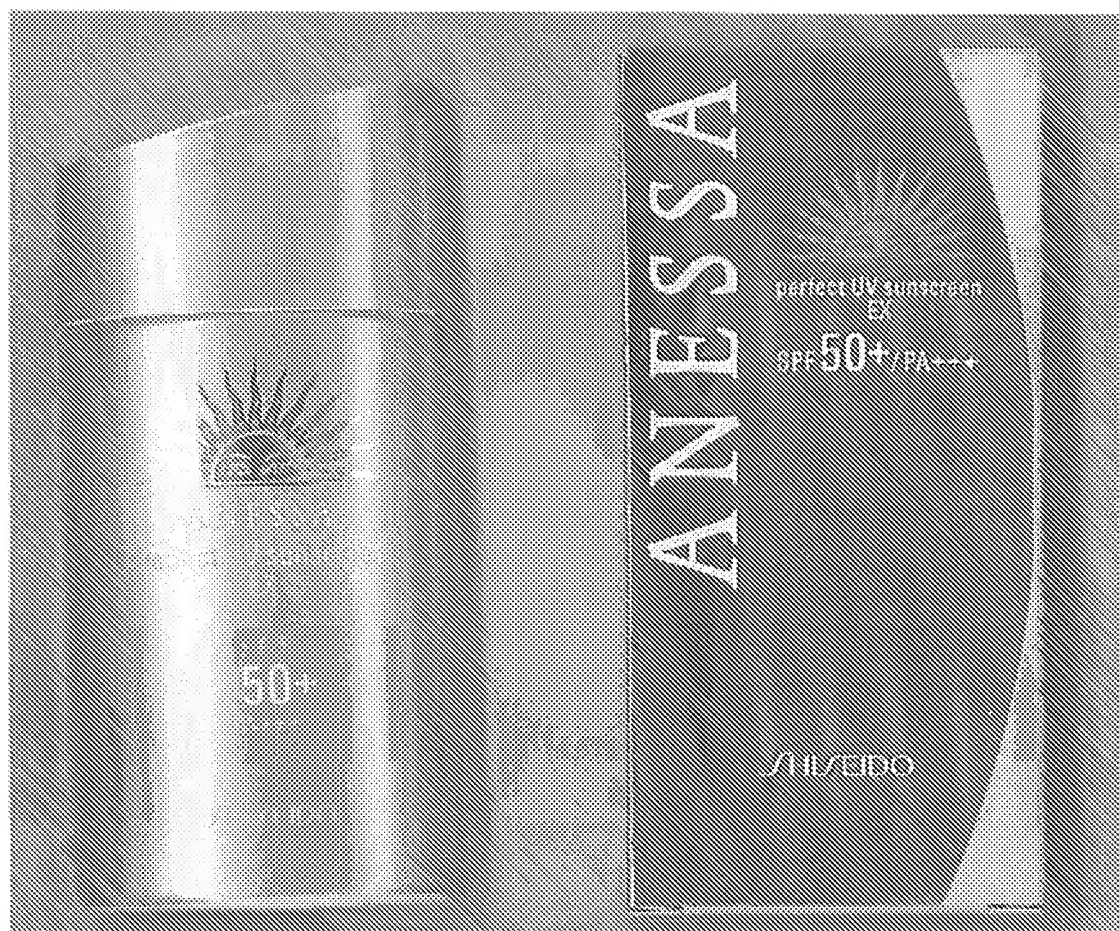
11. That the product, “Anessa” is a product considered by Shiseido Co., Ltd. as having been successful since the sales of this product have been profitable due at least in part to the skin irritation reduction properties imparted to this product by the claimed combination of components called for in claims 1-3 and 5-12 of the above-identified U.S. application.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: _____

Name: Takafumi Kurosawa

ATTACHMENT A



ATTACHMENT B

